

444 West "C" Street, Suite 320
San Diego, CA 92101-3597
(619) 231-4841
FAX (619) 231-3293

February 6, 2024

rovmail@sdcounty.ca.gov

Cynthia L. Paes
San Diego County Registrar of Voters
5600 Overland Avenue, Suite 100
San Diego, CA 92123

Melliott@sandiego.gov

Mara W. Elliott
San Diego City Attorney
1620 Civic Center Plaza
San Diego, CA 92101

cityclerk@sandiego.gov

Diana J.S. Fuentes
San Diego City Clerk
202 C Street, Second Floor
San Diego, CA 92101

Re: Larry Turner's Qualifications

Dear Mses. Paes, Elliott and Fuentes:

This office represents Helen Michelle VanDiver with respect to her concerns as to the qualification of Larry Turner to run for Mayor of the City of San Diego.

The San Diego Municipal Code has few qualifications to run for Mayor, but the most important one may be that the candidate, at least thirty (30) days before he or she turns in nomination papers, must have held a *valid Voter Registration* in the City. Thus, in order for Mr. Turner to be qualified for run for Mayor, he must have had a *valid* registration to vote in the City of San Diego on file with the Registrar of Voters. Not just a voter registration, a valid one. To be valid, he would have to be domiciled at the address provided. Papers I have reviewed suggest the Registrar of Voters ("ROV") verified Mr. Turner's residence information on December 11, 2023. Thirty (30) days prior, Mr. Turner's voter registration was at 550 – 15th Avenue, Unit 205 ("Unit 205"). Mr. Turner himself verified the 30-day requirement on December 1, 2023. He did so under oath. On November 1st, he was also registered at Unit 205.

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My client only has access to some, but not all, of the relevant evidence on this issue of Mr. Turner's domicile on November 1, 2023. I believe she is correct when she states that of all the evidence that *is* available to her, none supports Unit 205 as being a valid registration on November 1, 2023. If that is the case, Mr. Turner is not qualified to run for office. You already have ballots out there, but none of his votes should count unless he can establish that he was domiciled at that address on November 1, 2023.

Based on her very real concerns, I have worked with an investigator to identify evidence so you can determine for yourself whether or not Mr. Turner was, in fact, a resident and validly registered voter of the City of San Diego 30 days prior to filing his nominating papers seeking to become the City's next Mayor.

The investigation is not complete and I do not yet have all of the documents. However, the preliminary assessment, based on *what is available*, is that there is no evidence available to my client that Mr. Turner was domiciled where indicated in November 2023; there is substantial evidence that would suggest, for even an extended period after that time, into January of this year, he has remained domiciled in the City of El Cajon.

My decision to correspond with you now, even before the investigation is complete and before the corroborating documents can be fully shared, is premised upon the importance of this matter to both the electorate and Mr. Turner. If he was domiciled where he claims to have been in November 2023, then he should have as much time as possible to provide that proof to all of you. If he or you acknowledge he is *not* qualified, the voters ought to know that before they go to the polls.

I anticipate I should have the final results of the investigation in hand, attested to under oath and with all supporting documents, within ten to twelve (10-12) days.

My client is not contending anyone has intentionally attempted to circumvent the qualifications of this position. The evidence she has is what it is. You will have to make a determination as to whether or not Mr. Turner is qualified. While the evidence appears to be compelling, it is conceivable that Mr. Turner has information not available to my client that will challenge what we know now, or supplement it, in a way in which he could establish that he was domiciled at Unit 205, as he claimed, in November of 2023.

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BACKGROUND

Ms. VanDiver is employed in the field of Fintech and has been a continuous resident of the City of San Diego since 2006.

Ms. VanDiver owns her home in the City of San Diego and has for over a decade. She is active as a volunteer in veterans affairs and organizations that support America's military.

When his investigation is complete, I will get you a declaration under oath (with supporting documents) from investigator Mr. Lawrence J. Hamilton, CIP, FCLS. Mr. Hamilton has a Bachelors Degree from San Diego State University in Criminal Justice. He then entered the Federal Bureau of Investigation where he was a Specialist in the Foreign Counter – Intelligence Squad working with Special Surveillance Group (SSG) on threats against the United States.

Mr. Hamilton subsequently joined the City of San Diego, City Attorney's Office as a Senior Litigation Investigator, including fraud investigations. He is a licensed Private Investigator in the State of California (PI License #16367) since 1993.

Mr. Hamilton is a founder and director of The Special Investigations Unit, a Licensed Private Investigative Firm working with retired law enforcement investigators around the United States. He holds certifications as a Certified Investigative Professional and Fraud Claims Law Specialist. He has conducted over 10,000 investigations.

This office, as you may be aware, has handled numerous election law related matters for over 35 years. Specifically, my office has dealt with domicile issues in multiple cases. I also drafted San Diego's most comprehensive package of ethical reforms for San Diego's elected officials (2018's Measure L), so assuring compliance with laws by our elected officials has been a personal focus for over 25 years.

THE LAW

The San Diego City Charter, Section 7 (Elected Officers Residency Requirements) requires that any elected official at the City shall be a resident and elector of the City. Section 7 also provides that the Council "shall establish by ordinance minimum length of residency requirements for candidacy to elective office, whether by appointment or election."

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The City Council has established *minimum length of residency* requirements and those are addressed in Municipal Code, Section 270119 (Residency Requirements for Candidates and Elective Officers). That section provides, in part:

No individual is *eligible to run for*, or hold the office of Mayor or City Attorney of the City, either by *election* or appointment, unless:

1.
2. That individual was a registered *voter* of the City at least 30 calendar days prior to the date nomination papers were filed by the *candidate* pursuant to the nomination and write-in procedures in this article" [first emphasis added]

The term "voter" is defined in Municipal Code, Section 27.0103 and is defined as:

"An elector *who is qualified and entitled to vote* under general law in San Diego City elections"

It is my client's understanding that Mr. Turner submitted his nomination papers on December 1, 2023. Given the language of Municipal Code, Section 270119, Mr. Turner would have had to have been a *validly registered voter* in the City 30 days prior to that date.

On November 1, 2023, Mr. Turner was registered to vote at a San Diego address: 550 - 15th Street, Suite 205 (Unit 205). He registered to vote there on July 10, 2023. Unit 205 is a second floor, 2-bedroom condominium in downtown San Diego. I do have an understanding that a few weeks later, Mr. Turner re-registered to vote to a small bungalow in the Ocean Beach neighborhood of San Diego. However, given his filing of nomination papers on December 1st, the Ocean Beach bungalow is not significant in the determination of whether he was validly registered to vote in the City thirty (30) days prior to the filing of the papers. While he is certainly entitled to move, the move itself cannot correct a deficiency in the qualifications as specified by the Code.

The investigation that Mr. Hamilton has conducted, and based on evidence available to the public and licensed investigators, would lead a reasonable person to conclude that Mr. Turner

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was never lawfully domiciled at Unit 205; by all appearances, on November 1st, he was both domiciled and living at 9285 Soldin Lane, in El Cajon, California.

Residents of El Cajon are not qualified to run for Mayor of the City of San Diego.

The concept of domicile is pretty straightforward. While an individual may have several residences for different purposes, they can only have **one domicile**. See, for example, *Whittell v. Franchise Tax Board*, (1964) 231 Cal.App.2d 278.

California Elections Code, Section 2024, provides that the *mere intention* to acquire a new domicile, without the fact of removal avails *nothing*, neither does the fact of removal without the intention. In *Aldabe v. Aldabe* (1962) 209 Cal.App.2d 453, 467, the Court held:

“A man’s home is where he makes it, *not where he would like to have it*.” [emphasis added]

It would appear that Mr. Turner has been a several year resident of El Cajon in a home he owns with his wife (now held in a Trust they recently created). That is where he *was* registered to vote. When he filed his nominating papers, he represented that he was a lawful resident of the City of San Diego and his mandatory voter registration said he was domiciled at Unit 202, of 550 - 15th Street. In order to have accomplished a change of his domicile from the City of El Cajon to this location in the City of San Diego, no later than November 1st, Mr. Turner, by law, would have been required to:

1. Have *abandoned* his prior domicile;
2. *Physically moved to, and be residing* as his principal residence, at Unit 2 of the building at 550 - 15th Street;
3. Intended to remain at Unit 205 permanently or indefinitely as demonstrated by *his actions*.

As you review the following, also evaluate this 3-prong test in the context of the date Mr. Turner registered to vote at Unit 205 – July 10, 2023. Under *penalty of perjury*, he would have had to have represented his permanent residence by July 10, 2023 to be the 2-bedroom condo. No evidence, to date, supports a claim of a July 2023 domicile.

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**PRELIMINARY INFORMATION TO ASSIST YOU IN EVALUATING
WHETHER MR. TURNER IS PROPERLY QUALIFIED TO
RUN FOR OFFICE IN THE CITY OF SAN DIEGO**

Property Information

The investigator was able to perform a detailed property search for Larry Turner and Cynthia L. Turner dating back to 1993. By all appearances, the Turners had been living in the City of San Diego before choosing to move to El Cajon.

The investigation has determined that Mr. and Mrs. Turner purchased a residence at 9285 Soldin Lane, in **El Cajon, California** on or about December 19, 2019. San Diego County Tax Assessor records reveal that the Turners have been paying taxes on their El Cajon residence since, and that they are still the owners of the property. Available search vehicles for property listings do not, *even now*, reflect any other residential address associated with Mr. or Mrs. Turner beyond the Soldin Lane address in the City of El Cajon.

Mr. Turner claimed Unit 205 as his principal residence for voting for over 4 months, yet it shows up in no searches. It was only on November 23, 2023 that Mr. Turner registered once again, this time at 5012 Del Monte Avenue, San Diego (the Ocean Beach bungalow). That address does not show up on searches either.

Soldin Lane Residence

County records reflect that Larry Edgar Turner, Jr. and Cynthia Lizarraga Turner granted the Deed to the Soldin Lane property to an irrevocable trust on or about August 16, 2023. The Trust is identified as ZZ Ranch Living Trust. Mr. Turner and Ms. Turner appear to be the Co-Trustees for the Trust, which holds the title to the property on Soldin Lane.

Preliminary reports suggest that the El Cajon residence was funded, at least in part, with a Veterans Administration (VA) Loan. My research indicates that in order to maintain a VA Loan, an individual must reside in the property as their *principal residence*. There are a few exceptions. Obviously, my client does not have access to communications between the VA and the Turners. He would have to share those, if he chooses.

My goal here is to simply share the information we have so that you, and Mr. Turner, can get the best possible information in to you to support his claims. Information that my client

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would not have access to, but might assist Mr. Turner in establishing that he had abandoned Soldin Lane as his principal residence by July 10, or November 1st, could include:

- A mail forwarding order so that his mail, or the family mail, could be forwarded to that address;
- Change of address forms sent out to employers, friends, organizations with which he is involved, non-profits with which he is associated, groups he belongs to, magazines, colleges, universities, etc.;
- Proof that *any* mail has been delivered to him at this address;
- Re-registering of his automobiles (x 3) to this address in July of 2023;
- Change of address with the Department of Motor Vehicles in July of 2023;
- A residential lease from the owner for the Unit 205 property;
- A residential sublease from someone else for residence in the property;
- Proof of payment of rent at Unit 205;
- Registration of his name with the utilities associated with Unit 205;
- Documentation of payments for his use of the utilities in the unit;
- Notification to the building or homeowners' association that Mr. Turner and/or his family had taken up principal residence in this unit;
- Registration of his three (3) vehicles to be parked in the gated parking lot associated with Unit 205;

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- Change of address with his vehicle insurance company to show a new principal residence for the three (3) Turner family vehicles;
- Obtaining Renters' Insurance associated with Unit 205;
- Establish a land phone line associated with this residence for Mr. Turner and/or his family;
- A change of address with credit card companies to this address;
- A change of address with his banks or debit card to this address;
- Change of address of his cell phone to this address.

There are a lot of factors that are considered in evaluating a domicile claim in these disputed cases; I have seen all of the above utilized in the past and most of them should be available within a month or so of switching residences if, in fact, there was an intent to permanently domicile at this address.

550 - 15th Street, Unit 205

When he filed his nomination papers, Mr. Turner represented that he was both a resident of the City of San Diego and a validly registered voter in the City for at least 30 days. To lawfully register to vote, he also had to be domiciled where he registered. His voter registration then was at 550-15th Street, Unit 205. He had claimed Unit 205 as his principal residence, and domicile, since July 10, 2023. This property is a corner unit, two bedroom, two bath, 970 sq. ft. condominium. It last sold, according to the MLS, on May 9, 2019. The listed owner is Giorgio J. Kirylo. We have *not* spoken to Mr. Kirylo.

The investigators firm has run a comprehensive background investigation of Mr. Turner and has found, as of its most recent check, no residential history associated with Mr. Turner for this alleged residence. None: July, August, September, October or November. The investigator reports that, had he *moved*, had he been *paying bills* from that residence, *receiving mail* or taken *other steps to change his address*, it should have shown up by now in the "Credit Header Reports" with his address history. This is a tool used by law enforcement, private investigators,

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government agencies, and other investigators throughout the United States. The address at 15th Street is not listed on the address history for Mr. Turner or his wife, not once.

As noted, the current Grant Deed for that claimed residence lists Giorgio Kirylo, an unmarried man, as the owner of record. The Grant Deed was dated March 27, 2019, notarized on April 30, 2019, and recorded on May 9, 2019. The Deed of Trust was located as VA Case No. 77-77-6-5342588. This would suggest, if this information is accurate, that this property is assigned a VA number. That, too, if accurate, would suggest this residence must be principally occupied by the individual who claimed veteran status and holds a Veterans Certificate. Of course, my client does not have access to communications, or exceptions, involving this owner. It is possible additional information would change her understanding.

I do see on his Information Sheet (filed with the City Clerk), Mr. Kirylo is identified as Mr. Turner's campaign's manager. Unit 205 is *also* listed as the campaign headquarters.

The investigator ran a comprehensive background investigation profile at the end of January 2024 on this 15th Street residence and it was still not showing in Mr. Turner's residential address history. There is always some minimal lag time on these searches, but July 10, was *211 days ago*, almost 7 full months.

An alphabetical listing check of the directory at 550 - 15th Street, Unit 205, San Diego did not show a Larry Turner on the directory. Additionally, on various occasions, a search of the parking garage or nearby streets did not find the vehicles that are known to be registered at this time to Mr. or Mrs. Turner.

We need to make sure we get this right, and I am a big believer that if you get the best possible information to decision makers, they will reach the right decision. Obviously, my client and the investigator do *not* have access to all of the information that might bear on this issue. Much of that is in the possession of Mr. Turner. To assist, I will identify information below that could corroborate a July to November domicile at Unit 205. He will have information we cannot access.

It is not enough to just have taken up a residence at Unit 205. Soldin Lane would have had to have been *abandoned* as his principal residence. Additional evidence to show he was domiciled at Unit 205 by July 10th or November 1st, could include:

- Multiple neighbors describing observations of Mr. Turner and/or his family in the Unit 205 continuously since July 10th;

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- Evidence that the vehicles have been parked at the residence overnight since July 10th;
- Documentation, with receipts, with moving companies or rented vehicles to show a physical move by the family to Unit 205;
- To the extent the family has kept its furnishings at its former residence in El Cajon, documentation of the purchase of new furniture or rental of furniture at the new permanent address in July of 2023, or by November 1st;
- Declarations from former neighbors, business associates and family members to corroborate that Mr. Turner and/or his family vacated the El Cajon residence by July 10, 2023;
- Leases or subleases to any new tenants at the El Cajon residence by July or August of 2023;
- Declarations that the three (3) Turner vehicles have not been associated with the El Cajon residence since principal residency was claimed at Unit 205 in July;
- Some evidence as to the use that has been made of the El Cajon residence since July 2023 that would corroborate that it is not being used as a principal residence for Mr. Turner or his family.

DMV/Vehicles

The Special Investigations Unit is an authorized user of the California Department of Motor Vehicles and, as such, is able to obtain license plate information of a vehicle by VIN number or License Plate Number. They are *unable* to obtain the addresses of the registered owner.

To the extent you commence an independent investigation into this matter, perhaps you could get the actual registrations to see where, and when, the three vehicles associated with the

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Turners have been registered, and whether they were registered at Unit 205 by November 1, 2023, or July 10th when the physical move is represented to have occurred.

There are at least three vehicles that have *recently* been regularly parked in the driveway of the Soldin Lane address, and those license plates were obtained.

Vehicle 1: California License 9DKM480 (2022 Tesla Model Y)
(Registered to Larry Edgar Turner, Jr.);

Vehicle 2: California Temporary License CM48V42, which now has been assigned permanent California Licence 9KOU056, a 2024 Rivian (Registered to Larry Edgar Turner, Jr. and Cynthia Lizarraga Turner);

Vehicle 3: California License 14288M2, a 2018 Toyota Tacoma pickup truck (Registered to Larry Edgar Turner and Cynthia Lizarraga Turner).

These vehicles, in recent weeks, have been seen at the Soldin Lane, El Cajon address. They were *never* seen by the investigator at the 15th Street address.

Again, the residence at which those vehicles are registered would be known only to the Turners, but they can provide that information to you.

Utilities

According to the investigator, a utility search was conducted using Mr. Turner's multiple addresses. A search was conducted for *any* utilities (gas and electric, water, cable television, etc.) for the address of 550 -15th Street, Unit 205, and that search utilized the name of Larry Turner, Larry E. Turner, Larry Edgar Turner, Jr. and all other variations along with that of his wife's name, Cynthia Turner, and all alias names used in the profile background search conducted.

This investigation showed no utilities ever registered under the name of either Larry Turner or Cynthia Turner, or any variations. It is possible there have been utilities taken out by Larry or Cynthia Turner at this address, but since he stated that was his principal residence by July 10, 2023, those utilities presumably would have shown up in the database by now. They would have to provide that, and you could perhaps ask them for that. Alternatively, the campaign

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manager may be paying these, but the Turners would have to be reimbursing him to avoid gift limit implications. Perhaps the campaign is paying for Unit 205 (since the headquarters is reportedly there), but that would raise a whole host of its own issues.

After finding no utilities associated with the Turners at the San Diego address, the investigator then did a search for 9285 Soldin Lane, El Cajon, CA 92021. Through a third party investigative agency, they were able to obtain information about the Turners' utilities and did so without utilizing pretexts.

Utility information did appear for the Turners at the Soldin Lane, City of El Cajon, address. Those appear to have commenced several years ago.

A utility search was conducted on multiple occasions with respect to the El Cajon address. The most recent search as January 10, 2023 and the utility records were still showing up under the names of Cynthia Turner and Larry Turner, Jr., at the Soldin Lane address.

As noted above, if this information is incorrect in any way, we will need to look to Mr. Turner to correct it.

Postal Service

The Special Investigation Unit is an authorized user of the National Change of Address database for address forwarding and address verification. They used this database to obtain the most current postal address for Larry Edgar Turner, Jr. and his wife, Cynthia Turner.

The National Change of Address database (NCOA) was provided with the address of 5990 Dandridge Lane, Unit 183, San Diego, CA 92115-6579. This was understood to be the last known City of San Diego address for the Turners before they purchased the residence in El Cajon. The search provided information that Mr. Turner *had provided a change of address from* the City of San Diego to 9285 Soldin Lane, El Cajon, CA 92021-2872 in December of 2019, when the Turners apparently bought their El Cajon residence. When they moved then, they changed their address immediately.

The National Change of Address database (NCOA) was then provided with the address of 9285 Soldin Lane, El Cajon, CA 92021-2872 for Larry E. Turner. This provided a "no hit," and no change of address to 550 - 15th Street, Unit 205, San Diego, CA 92101-7576.

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As documented on January 16, 2024, the United States Post Office verified that Larry E. Turner, Jr. and Cynthia Turner were *currently* receiving mail at 9285 Soldin Lane, El Cajon, CA 92021-2872 and that there was *no forwarding mail information* on file for them. This information was verified through the USPS Station Manager (who conducted his own research) and will be documented for you once the investigation is complete.

CONCLUSION

Obviously, the above information is not all-inclusive, but it is *everything* that is either publicly available or lawfully available to a properly licensed investigator to determine whether an individual has, in fact, physically abandoned their old domicile and developed a new domicile.

I do understand that Mr. Turner is now showing yet another San Diego address, in Ocean Beach, and I understand that change was documented with a change in voter registration on November 23, 2023. Of course, even a valid move on November 23rd is too late on the residency issue since his 30-day residency requirement started on November 1st. Nevertheless, much of the information that I have shared above, from the investigator, would suggest that well into January, basic objective evidence as to one's primary residence would suggest that the Turners remain on Soldin Lane, in El Cajon.

For qualifying purposes, Mr. Turner had to be a *valid registered* voter 30 days before submitting his nomination papers; November 1st is the critical date and on November 1st Mr. Turner was registered in Unit 205. *To have his votes counted* for him in the primary, he will have to rebut the prima case made by Ms. VanDiver that he was not *validly* domiciled there at that time.

The investigators report will include *physical observations* into January 2024 that, standing alone, will be evidence that the home in El Cajon continued to be Mr. Turner's principal residence. *When observed*, the entire family appeared to still be residing there.

There is nothing wrong with living on Soldin Lane, in El Cajon. But if, in fact, Mr. Turner was not domiciled in Unit 205 on November 1, 2023, then Mr. Turner was not qualified to run for the Office of Mayor of the City of San Diego when verified his nomination papers.

Let me stress that it is not my job, nor my client's, to make the determination as to where Mr. Turner is domiciled. That is up to you, or the courts if that becomes necessary. As I stated at the outset of this letter, my goal in getting this to you was to give your offices, and Mr. Turner

Attorney at Law
Robert P. Ottlie

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himself, the best opportunity to present his best available evidence to demonstrate that his representations about being domiciled in the City of San Diego on November 1st were accurate.

If he cannot demonstrate he is a qualified candidate, his votes he receives in the upcoming primary cannot be counted.

Please keep me advised of the actions you intend to take given the foregoing.

Sincerely,

Robert P. Ottlie

RPO:mau
cc: Client